

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ELC NO. 104 OF 2011

WOBURN ESTATE LIMITED
PLAINTIFF

VERSUS

LILLIAN MARIGA
RESPONDENT

RULING

1. The 1st defendant filed a Notice of Appeal dated 26th June 2025 intending to appeal against the ruling of this court delivered on 13th June 2025. Subsequently on 27th June 2025 the 1st defendant filed an application, also dated 26th June 2025 seeking leave of the trial court to appeal the Court Of Appeal from the ruling delivered on 13th June 2025. The grounds upon which the intended appeal is proposed are on the face of the application.
2. The application is opposed through the affidavit of the plaintiff dated 22nd October 2025. The plaintiff objects to the application on the basis that it is not accompanied by any supporting affidavit, in contrast to the mandatory provisions of **Order 51 Rule 4 CPR**. It is also deponed that the applicant has not demonstrated any arguable or meritorious grounds warranting leave to appeal or extension of time. It is also stated that the court lacks jurisdiction to determine matters relating to the alleged illegality or ineligibility to practice by counsel which mandate is said to fall under the Advocates Disciplinary Tribunal and the Law Society of Kenya.
3. The defendant file submissions dated 30th October 2025 in support of the application. The plaintiff's submissions are dated 4th November 2025. I have considered both sets of submissions.

4. Considering that the ruling was delivered by electronic means I find that there is justification for the filing of the application for leave, accompanied by an affidavit or not, since counsel did not have opportunity apply for leave at the time of delivery. It is noteworthy that on an oral application for leave no affidavit is required, and this court does not find the omission, where the application speaks on its face, to be fatal to it. Regarding its merits, the court notes that the issue of representation in litigation is peripheral to matters subject to jurisdiction of this court, but finds that there is need for the applicant's discontent to be ventilated at a higher level since in any event it does no harm to the respondent in terms of delaying proceedings in the present suit. I find no good ground in the plaintiff's reply upon which the applicant's right to appeal may be curtailed.
5. I therefore grant the application in terms of **prayer number (a)** thereof which seeks leave to appeal. As a Notice of Appeal had been filed timeously within 14 days of the impugned ruling, there is nothing to extend and **the prayer number (b)** does not in any event seek any extension.
6. This suit shall be mentioned on **11/3/2026** for further directions.

Dated, signed and delivered at Malindi on this 3rd day of February 2026.



**MWANGI NJOROGE,
JUDGE, ELC, MALINDI.**